

Application No: 09/995,467  
Attorney's Docket No: GB 000168

pending Application No. 09/995,488. The Office Action rejects claims 1-14 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Publication No. 2006/0023666 to Jalali et al. (hereinafter "Jalali"). Applicant respectfully traverses the above rejections for at least the reasons set forth below.

#### DOUBLE PATENTING

The Office Action provisionally rejects claims 1, 3, and 13 on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 2, and 5 of co-pending Application No. 09/995,488. Applicant notes that Application No. 09/995,488 has been abandoned. Applicant therefore holds in abeyance a specific traversal argument of the provisional double patent rejection pending the unlikely allowance of one or more claims in this abandoned case.

#### REJECTION UNDER 35 U.S.C. § 102

The Office Action rejects claims 1-14 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Publication No. 2006/0023666 to Jalali. Applicant respectfully traverses this rejection. Applicant respectfully submits that Jalali fails to disclose teach or suggest the subject matter according to the combinations recited in independent claims 1, 3, and 13.

Claims 1 and 3 recite "data categorization means for determining and assigning a data quality category to a set of data for transmission, said data categorization means being adapted to assign different categories to different segments of the set of data from an application." This

Application No: 09/995,467  
Attorney's Docket No: GB 000168

subject matter relates to distinguishing between data bits with differing quality of service requirements.

Applicant respectfully submits that Jalali does not disclose, teach, or suggest this subject matter. Jalali describes a system that allows for the total operating bandwidth to be shared among different types of services that may have different data rate, delay, and quality of service requirements. See section [0043]. The system of Jalali, however, uses antenna, frequency, or temporal diversity based on the general requirements of the type of service, not based on the requirements of different segments of the data. See section [0044, 0047]. For example, the system of Jalali allocates resources in order to deal with the short delay requirements imposed by voice services and the sporadic nature of data services. See section [0044]. In other words, Jalali makes a broad determination based on the type of service and does not assign a data quality category to a set of data for transmission.

Consequently, Applicant respectfully submits that Jalali does not disclose, teach, or suggest "data categorization means for determining and assigning a data quality category to a set of data for transmission, said data categorization means being adapted to assign different categories to different segments of the set of data from an application," as recited in claims 1 and 3.

Claims 1 and 3 also recite "mapping means . . . for determining a mapping to apply the set of data to the transmitter's plurality of antennas such that the set of data is transmitted over a path or paths in which the determined data quality of the set of data corresponds to the at least one transmission property of the path or paths." This subject matter relates to mapping data bits

Application No: 09/995,467  
Attorney's Docket No: GB 000168

to the transmit antennas in order to use particular radio paths according to the differing quality of service requirements of the bits. For example, the most important bits could be transmitted via the highest quality paths, while the less important bits could use lower quality radio paths.

Applicant respectfully submits that Jalali does not disclose, teach, or suggest this subject matter. Rather, the symbol mapping element of Jalali maps the symbols for each channel data stream to a set of tones that are assigned to the channel. See section [0153]. The mapping in Jalali is therefore a mapping from a channel data stream to a set of tones, not a mapping from a set of data to the transmitter's plurality of antennas. In other words, the symbol mapping element of Jalali is used to map symbols for each channel data stream to a set of tones that are assigned to the channel, not to determine which antennas to use for transmission based on the data quality of the set of data.

Consequently, Applicant respectfully submits that Jalali does not disclose, teach, or suggest "mapping means . . . for determining a mapping to apply the set of data to the transmitter's plurality of antennas such that the set of data is transmitted over a path or paths in which the determined data quality of the set of data corresponds to the at least one transmission property of the path or paths," as recited in claims 1 and 3.

At least by virtue of the failure of Jalali to disclose, teach, or suggest the above quoted subject matter according to the combinations recited in claims 1 and 3, the Office Action has failed to meet the standard of anticipation under 35 U.S.C. § 102. Claim 2 depends from allowable claim 1 and is also allowable over Jalali at least by virtue of its dependency. Claims 4-

Application No: 09/995,467  
Attorney's Docket No: GB 000168

12 depend from allowable claim 3 and are also allowable over Jalali at least by virtue of their dependencies.

Claim 13 recites "assigning different categories to different segments of a set of data from an application for transmission." This subject matter relates to distinguishing between data bits with differing quality of service requirements.

Applicant respectfully submits that Jalali does not disclose, teach, or suggest this subject matter. As discussed with respect to claims 1 and 3, the system of Jalali uses antenna, frequency, or temporal diversity based on the general requirements of the type of service, not based on the requirements of different segments of the data. See section [0044, 0047]. In other words, Jalali makes a broad determination based on the type of service and does not assign different categories to different segments of a set of data.

Consequently, Applicant respectfully submits that Jalali does not disclose, teach, or suggest "assigning different categories to different segments of a set of data from an application for transmission," as recited in claim 13.

Claim 13 also recites "determining a mapping to apply the set of data to the transmitter's plurality of antennas such that different portions of the set of data are transmitted over a respective path such that a determined data quality of said data portion corresponds to the determined at least one transmission property of the path." This subject matter relates to mapping data bits to the transmit antennas in order to use particular radio paths according to the differing quality of service requirements of the bits.

Application No: 09/995,467  
Attorney's Docket No: GB 000168

Applicant respectfully submits that Jalali does not disclose, teach, or suggest this subject matter. As discussed with respect to claims 1 and 3, the mapping in Jalali is a mapping from a channel data stream to a set of tones, not a mapping from a set of data to the transmitter's plurality of antennas. The symbol mapping element of Jalali is used to map symbols for each channel data stream to a set of tones that are assigned to the channel, not to determine which antennas to use for transmission based on the data quality of the data portion.

Consequently, Applicant respectfully submits that Jalali does not disclose, teach, or suggest "determining a mapping to apply the set of data to the transmitter's plurality of antennas such that different portions of the set of data are transmitted over a respective path such that a determined data quality of said data portion corresponds to the determined at least one transmission property of the path," as recited in claim 13.

At least by virtue of the failure of Jalali to disclose, teach, or suggest the above quoted subject matter of claim 13, the Office Action has failed to meet the standard of anticipation under 35 U.S.C. § 102. Claim 14 depends from allowable claim 13 and is also allowable over Jalali at least by virtue of its dependency.

For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 1-14 as allegedly being anticipated by Jalali be withdrawn.

#### CONCLUSION

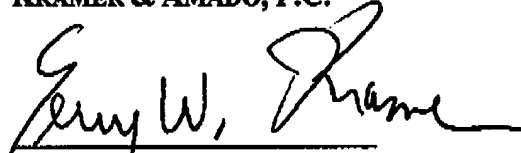
In view of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Application No: 09/995,467  
Attorney's Docket No: GB 000168

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the correspondence attorney listed below in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,  
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